

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing Nos. 14,916

) & 14,954

Appeal of)

)

INTRODUCTION

The petitioner appeals two decisions by the Department of Social Welfare denying his applications for General Assistance (GA). The issue is whether the petitioner met the eligibility requirements for that program under the pertinent regulations.

FINDINGS OF FACT

The petitioner filed an application for GA on March 13, 1997, requesting assistance for the rent and deposit on a trailer he had just moved into. The petitioner had just gotten out of jail and was unemployed. The Department denied that application because the petitioner presented no evidence that he was not "able-bodied" and because he was not facing a "catastrophic situation" as defined in the regulations (see infra). On that date the hearing officer denied the petitioner an "expedited hearing"⁽¹⁾ (No. 14,916) because the petitioner was not without housing at that time. On that date, the Department furnished the petitioner with a GA medical report form, and told him to have his doctor indicate on the form whether or not the petitioner could work.

The petitioner filed another application for GA on March 18, 1997. He brought with him the GA medical form on which his doctor indicated that he would be precluded from working for 3 months due to "low back pain". On the form, however, the doctor indicated that the petitioner (who has performed only unskilled labor in the past) could perform other work that did not entail "bending, lifting, or twisting", or require him to "stand > 1 hr." The Department denied this application because the petitioner did not allege he was in imminent danger of being evicted, and because the medical report form indicated that he could do sedentary work. The petitioner did not separately appeal this decision.

On April 1, 1997, he again applied for GA. He presented another form filled out by his doctor on March 31, 1997, which indicated that he would be precluded from all work for two weeks, but that the doctor needed to see the petitioner's medical records to make a more detailed diagnosis. The Department denied this application for the same reasons as the earlier denials--i.e., that the petitioner was not facing an imminent loss of housing and did not meet the definition of not being able-bodied. The petitioner appealed this decision (No. 14,954).

A hearing was held on April 11, 1997. The petitioner represented that the local community action

agency had given him \$100 toward his rent and deposit, but that the rent was \$200 a month and the landlord, who was a friend of his, was getting impatient for the rest. He had no further medical reports to present at that time, but was advised to reapply if his doctors indicated that he had a 30-day total disability (see infra).

Subsequent to the hearing the hearing officer was informed that based on a medical report furnished by the petitioner on April 24, the Department had granted him the maximum GA payment for housing (\$198 a month) retroactive to April 1, 1997.⁽²⁾ Thus, the remaining issue in this matter is whether the petitioner qualified for GA for housing from March 13 through 31, 1997.

ORDER

The Department's decision is affirmed.

REASONS

The regulations specify that an individual without income and dependents is eligible for GA only if he is not "able-bodied" or if he is facing a "catastrophic situation". W.A.M. § 2600.

"Able-bodied" is defined at W.A.M. § 2601 as follows:

No physical or mental impairment exists which prevents the person from working. A person shall not be considered able-bodied if currently unable to work in any type of employment due to physical or emotional problems that have lasted or presumably will last at least 30 days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the GA applicant a Medicaid recipient. The Department shall pay the reasonable expense of required medical examinations but may require, and pay for, a second opinion.

As noted above, the medical report the petitioner submitted on March 18, 1997, indicated that he was capable of at least sedentary work. The form dated March 31 indicated only a two-week disability. Thus, it cannot be concluded that the petitioner demonstrated that he was "unable to work in any type of employment...(for) at least 30 days".

W.A.M. § 2602 defines "catastrophic situations" as being a "court-ordered or constructive eviction". As noted above, the petitioner was able to move into his trailer on March 13 without GA; and as of the date of the hearing (April 11) he was still not facing any imminent threat of eviction.

Inasmuch as the Department's decisions in the petitioner's case were in accord with the above regulations, the Board is bound by law to affirm them. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

1. See Procedures Manual § P-2610 D.

2. This information was conveyed to the hearing officer by the Department's District Director for the petitioner's district on May 2, 1997, pursuant to another request filed by the petitioner for an expedited hearing. That hearing request is still pending.